IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2206 OF 2007

Rakesh Arjunprasad Agarwal .... Petitioner

Vs.

The State of Maharashtra & Ors. .... Respondents

Mr. M.P. Mishra for Petitioner
Mr. F.R. Shaikh APP for Respondent Nos.1 to 3.

CORAM : R.M.S. KHANDEPARKAR, &
A.A. SAYED, JJ.
DATE : 4TH DECEMBER, 2007

P.C.

1) Heard.

2) Since the Petitioner has an efficacious remedy under the provisions of law, the question of exercising the writ jurisdiction does not arise in the matter. The grievance of the Petitioner relates to the suspicion about the death of his brother. The Post Mortem report clearly disclose that the brother of Petitioner had died due to "shock electrocution". In case the Petitioner has any doubt about the death of his brother, certainly he can file complaint before the Magistrate. Merely because it may be difficult for the Petitioner to secure the presence of the witnesses by himself before the learned Magistrate is not justifiable reason for interference in writ

jurisdiction in the matter. Certainly the provisions of law can be invoked by the Petitioner to secure the presence of his witnesses by getting witness summons.

3) In the circumstances, there is no case made out for issuance of writ in the matter. Petition is therefore rejected leaving other remedies open to the Petitioner.

(R.M.S. KHANDEPARKAR, J.)

(A.A. SAYED, J.)